The circumstances surrounding the death of a male prisoner

In hospital on 26 December 2004

Report by the Prisons and Probation Ombudsman
for England and Wales

September 2005

This is the report of an investigation into the circumstances surrounding the death of a male prisoner in hospital on 26 December, 2004. The prisoner was 68 years old. At the time of his death, he was serving a nine year sentence of imprisonment at HMP Garth.

A post mortem examination concluded that the prisoner's bladder cancer was advanced and inoperable and that he died of natural causes.

The investigation was conducted on my behalf by my colleague.

I also commissioned an independent clinical review of the management of the prisoner's health needs while he was in prison. This was carried out by a representative of the Chorley and South Ribble Primary Care Trust. A subsidiary review of the manner in which the prisoner was cared for in hospital was carried out by a representative of the Chief Executive of the Lancashire Teaching Hospitals. I am grateful to both agencies for their generous assistance.

My thanks also go to the Governor and staff at Garth for their help and cooperation during the investigation.

This publicised version of the report does not include any of the original annexes which were extensive.

Stephen Shaw CBE
Prisons and Probation Ombudsman **September 2005**

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1. Summary

On 26 October 2001, the prisoner entered Altcourse prison on remand, accused of a serious drug-related offence. On that day, he underwent a first reception health screen during which no significant medical issues were noted other than that he was worried about having prostate problems.

On 11 January 2002, the prisoner was committed for trial at Warrington Crown Court. On 4 March, he was convicted and sentenced to nine years imprisonment. Following his conviction, while still at Altcourse, the prisoner was designated security category B. On 26 March 2002, he was transferred to HMP Garth.

While he was at Garth, the prisoner developed difficulties in swallowing and had urinary tract infections. He was admitted to a hospital in August 2004. Doctors investigated his condition, and on 13 August gave a possible diagnosis of bladder cancer. The prisoner returned for a short time to Garth to await surgery. On 25 August, he was readmitted to the same hospital for further tests. These showed that his swallowing difficulties might have been caused by the presence of a duodenal ulcer, which was subsequently treated. Doctors became optimistic that the prisoner's swallowing difficulties and gastric problems would improve as a result of the medication prescribed for his ulcer. They therefore discharged him again to Garth to await surgery on his bladder.

On 31 August, the prisoner returned to hospital for his operation. He had lost weight and had continued to experience swallowing difficulties.

On 1 September, he underwent an initial operation, during which doctors discovered that a large malignant tumour had invaded the bladder. Biopsy tissue of the tumour was taken for further investigation and tentative plans were made for him to undergo further surgery.

On 9 September, a further test revealed a minimal opening of the sphincter muscle at the base of the prisoner's oesophagus. It was thought that this might be related to an underlying neurological condition. The prisoner was subsequently referred to a consultant neurologist at another hospital, where he was admitted on 20 September. During the following two weeks, the biopsy tests revealed that the cancer had invaded his pelvic muscles. Extensive cardiac tests also showed that he had heart failure and a blood clot on his lung.

Doctors decided that the bladder cancer was inoperable. Treatment options were therefore discussed with the prisoner. With his agreement, a course of radiotherapy was commenced on 27 October. The prisoner subsequently contracted MRSA which was treated with antibiotics.

The results of the investigations into his swallowing problems led to a diagnosis of two very rare conditions: polymyositis, the weakening of the

muscles through inflammation, and dermatomyositis, the weakening of the skin through inflammation.

The prisoner remained in hospital, but he continued to deteriorate. He died on 26 December 2004. He was 68 years old.

The investigation found that the care given to the prisoner while he was at Garth and when he was in hospital was appropriate.

I make one recommendation about medical record keeping.

2. Investigation methodology

The investigation was conducted on my behalf by my colleague.

Notices were issued to staff and prisoners at Garth, inviting anyone who wished to express concerns about the prisoner's death to make themselves known to my investigator. No prisoners or staff took up this invitation.

One of my family liaison officers contacted a close friend of the prisoner after learning that he was concerned about the way in which the prisoner was treated in hospital. These concerns were examined as part of the independent clinical review that I commissioned into the management of the prisoner's health needs while he was in custody. The review was conducted by a representative of the Chorley and South Ribble Primary Care Trust (PCT). A separate review of the prisoner's treatment in hospital was conducted by a representative of the Chief Executive of the Lancashire Teaching Hospitals.

3. HMP Garth

Garth is a category B training prison situated near Preston in Lancashire. It holds nearly 700 prisoners serving medium and long terms. Its accommodation comprises five wings, a segregation unit and a healthcare centre. The latter provides 24 hour medical cover and has inpatient facilities for up to eight prisoners.

The establishment was last inspected by Her Majesty's Chief Inspector of Prisons in February 2004. The report of that inspection included five recommendations about healthcare, none of which are relevant to this investigation.

4. The deceased

The prisoner was born in October 1936. He enjoyed a happy childhood within a close and supportive family. It is understood that both the prisoner's parents are dead, but that he is survived by a sister.

The prisoner left school with no qualifications. He led a crime-free life until his late thirties, when he was convicted of a motoring offence. In the mid-1990s, at the age of 58, he was imprisoned for 30 months after being convicted of possessing drugs with intent to supply. He was single when he entered prison.

Prior to his arrest in October 2001, the prisoner had been living near Southport. He was arrested on a serious drug-related charge for which he was later sentenced to nine years imprisonment.

The prisoner told prison staff that he fully accepted responsibility for his crime which, he said, was motivated by the prospect of financial gain to support his ailing business. Staff at Garth regarded the prisoner as a level-headed man who became a father figure to younger prisoners. He had gained the respect of staff and prisoners alike.

The prisoner died of cancer at the age of 68.

5. Events prior to the prisoner's death

The prisoner was arrested on 25 October 2001 on suspicion of possessing heroin with intent to supply. The next day, he was remanded in custody by Warrington Magistrates and sent to Altcourse prison.

When he arrived at Altcourse, the prisoner underwent a first reception health screen. No significant medical issues were noted other than that he was worried about his prostate problems.

On 11 January 2002, the prisoner was committed for trial at Warrington Crown Court. He was convicted and sentenced to nine years imprisonment on 4 March. Following his conviction, the prisoner returned to Altcourse and was designated security category B. Three weeks later, on 26 March 2002, he was transferred to HMP Garth.

On arrival at Garth, the prisoner underwent a further reception health screen during which it was again recorded that he was suffering from prostate problems for which he was prescribed appropriate medication. He completed an induction programme and was allocated to C wing where he attained enhanced status within the local incentives and privileges scheme. During his sentence, he incurred no adjudications for breaches of the Prison Rules. On each occasion he was subject to mandatory drugs tests, a negative result was obtained.

In August 2002, the prisoner was seen by a doctor after complaining of difficulty in passing urine. This was attributed to his prostate problems.

Nothing of note was recorded for the period between August 2002 and January 2004.

Between January and April 2004, the prisoner was seen by a doctor on six occasions because of intermittent urinary tract problems. On 21 April 2004, he was referred to an Urology department in an outside hospital.

The prisoner was seen on eight further occasions between 25 May and 4 August 2004. During that period he was also referred to the Gastro-enterology department in a hospital.

On 4 August 2004, the prisoner was admitted to hospital after experiencing symptoms of dysphagia (swallowing difficulties) during the preceding six weeks. He told doctors that his food had been sticking half way down his oesophagus, that he had lost weight, had suffered from a series of urinary tract infections and had an enlarged prostate gland. The prisoner commenced a series of clinical investigations, including blood tests, x-rays and a bladder scan.

On 10 August, an ultrasound scan of his pelvis was carried out. This identified changes in both the prisoner's kidneys and irregular changes within the bladder that were suggestive of a tumour.

On 11 August, a member of the Urology team saw the prisoner and gave a possible diagnosis of cancer of the bladder.

On 13 August, a cystoscopy examination (flexible camera scope into the bladder) identified a widespread invasive tumour of the bladder. A biopsy was taken and sent for histology examination. The prisoner was to undergo an operation on his bladder two weeks later. It was agreed that he was medically fit to return to Garth to await his operation.

On 18 August, the prisoner was discharged from hospital and returned to Garth to await surgery. He was kept in the healthcare centre.

On 25 August, he was re-admitted to hospital to undergo a gastroscopy (flexible camera scope which examines the oesophagus, stomach and duodenum) under sedation. Blood tests showed that the prisoner was anaemic. An intravenous drip was commenced and, over the following 24 hours, a blood transfusion of two units of blood was administered.

On 26 August, the prisoner was taken to the Endoscopy unit to undergo his examination. It showed that there was some oedema (swelling of the oesophagus) as well as a duodenal ulcer. The doctor explained to him that the ulcer was possibly the cause of his swallowing difficulties and his loss of appetite. Arrangements were made to carry out further assessments of the prisoner's swallowing capacity on the following day, and medication was prescribed for his ulcer.

On 27 August, a Speech and Language Therapist carried out an assessment of the prisoner's swallow. It was noted that he was able to swallow bread and soft diet. He was therefore to continue with this in the short term, and a further assessment was to be carried out later in the day. The therapist returned to see him in the afternoon. It was agreed that he would continue with a soft and pureed diet with syrupy fluids. The doctors were optimistic that the prisoner's swallowing and gastric problems would improve as a result of the medication he had been prescribed for his ulcer. He was therefore to be discharged to await his planned bladder operation.

On 28 August, the prisoner returned to the healthcare centre at Garth. He was re-admitted to hospital on 31 August to undergo the operation on his bladder. The prisoner continued to lose weight and to experience swallowing difficulties. The therapist therefore decided that he should undergo a video fluoroscopy (a swallow study jointly carried out by a radiologist and a speech and language therapist, using a dye to highlight the gullet) in order to try to locate any obstruction that might be the source of his distressing symptoms. On 1 September, before this investigation could be completed, it was necessary for the prisoner to undergo his operation. He was therefore taken to theatre. During the surgery it was confirmed that a malignant tumour had invaded the bladder.

On 9 September, the planned video fluoroscopy was performed. It demonstrated a minimal opening of the sphincter muscle at the base of the oesophagus. It was suspected that this problem might be related to an underlying neurological condition. The doctor advised that the prisoner should be fed via a naso-gastric tube until he was strong enough to face further surgery. The prisoner was subsequently referred to a neurologist and underwent further tests, including x-rays, blood tests, and CT scans.

On 17 September, a decision was made by the neurologist to transfer the prisoner to another hospital where further neurological tests could be carried out. He was transferred on 20 September.

Over the following two weeks, the results of the prisoner's biopsy investigations revealed that his cancer had invaded the main muscles of his pelvis. He was given further blood transfusions and he continued to be fed via a tube to maintain his nutrition. Extensive cardiac tests revealed that the prisoner also had extreme impairment of his heart, resulting in heart failure and a blood clot on his lung. It was difficult for doctors to prescribe anti-clotting therapy for these conditions in view of the bleeding that was occurring in his bladder caused by the cancer. The doctors discussed with the prisoner the treatment options, after explaining that the bladder cancer was inoperable.

On 27 October, a one week course of radiotherapy treatment was commenced with the prisoner's agreement. During this period it was discovered that he had contracted MRSA. This was treated with antibiotics. The prisoner asked doctors to explain to him the results of the numerous tests he had undergone. He told them that he did not wish to be resuscitated in the event of a cardiac arrest.

On 24 December, staff at Garth were informed that the prisoner had only a short time to live.

On 25 December, the prisoner's close friend and business partner was informed of his prognosis by staff at Garth.

The prisoner died in hospital shortly after 10am on 26 December.

6. Consideration of issues arising from the investigation

Concerns expressed by the prisoner's friend

The prisoner's close friend and business partner expressed the following concerns about his medical treatment:

- He felt that the prisoner should have been kept in hospital rather than being discharged to Garth;

- He thought that when the prisoner complained that he could not swallow he was told that he could;

- He thought that the prisoner's inability to swallow was due to a problem in his lungs and that this should have been identified sooner;

- The prisoner had growths on his hands and face for some time. The prisoner's friend thought that he did not receive rapid attention and investigation for them;

- He felt that a bed in the hospital should have been found for the prisoner earlier so that his treatment there could have been started more promptly.

These issues were examined by a representative of the Chief Executive of the Lancashire Teaching Hospitals who comments as follows:

- *Discharge from hospital to Garth*

When the prisoner was discharged from hospital on 28 August, his initial tests had been completed. The prisoner did not require specialist medical input and was managing to take small amounts of soft diet. He was awaiting further investigations and surgical intervention and it was felt that his condition was good enough for him to leave the hospital for the short period of time between 18 and 25 August.

- *The prisoner's inability to swallow*

Several investigations were carried out in an attempt to identify the cause of the prisoner's swallowing difficulties. Initially, these were thought to be related to his duodenal ulcer. However it was finally identified as being caused by two rare conditions: polymyositis and dermatomyositis.

- *Growths on the prisoner's hands*

In view of the seriousness of the prisoner's other conditions, the growths on his hands were not ignored but rather monitored and found to be related to his condition of dermatomyositis.

- *Hospital beds*

The Consultant Neurologist works at both hospitals. Therefore there was no delay in the initiation of the prisoner's neurological interventions. The doctors were addressing his condition of bladder cancer and feeding difficulties caused by his swallowing problems. As soon as a bed was available, the prisoner was transferred.

The consultant concludes his report as follows:

> "I can appreciate why the prisoner's friend has been so upset by the death of his friend whose complex conditions caused him to be so ill for so long. However, there is no evidence to support any suggestion that the medical and nursing staff did anything other than provide the appropriate treatment and care to the best of their ability."

Management of the prisoner's health needs at Garth

In her clinical review of the management of the prisoner's health needs while he was at Garth, the author comments that the care he received from healthcare staff was quite appropriate. She says that the prisoner's situation was complicated by the fact that he developed two serious illnesses. His urinary symptoms were related to the development of bladder cancer but his lethargy, weight loss and difficulty in swallowing were due to the onset of two very rare conditions: polymyositis and dermatomyositis. The author comments that at this point the healthcare staff at Garth were quite correct in arranging for the prisoner's urgent admission to hospital.

Finally, the author draws attention to her discovery of some illegible entries in the prisoner's medical record.

I conclude that the management of the prisoner's health needs while he was at Garth was professional and correct.

9. Recommendations

Based on the clinical review, I make the following recommendation.

Documentation/Standards of Record Keeping

The Governor, in conjunction with his Local Primary Care Trust, should draw this report to the attention of healthcare staff to remind them of the importance of ensuring that all entries made in prisoners' medical records bear the clear signature of the author.